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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,772	12/12/2003	Douglas Heintzman	AUS920030916US1	1755

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EXAMINER

TRAN, HENRY N

ART UNIT	PAPER NUMBER
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2629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/19/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/734,772

Applicant(s)

HEINTZMAN ET AL.

Examiner

Henry N. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Application has been examined. The original claims 1-29 are pending. The examination results are as follows.

Information Disclosure Statement

1. The examiner has considered the documents listed in form PTO-1449 submitted with the Information Disclosure Statement (IDS) received '12/12/03 (see the attached form PTO-1449).

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "305" has been used to designate both the split circle and the cloud (see Figures 3A and 3B; also, line 20 of page 15, and line 1 of page 16 of the specification). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 9 is dependent upon claim 8

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and base claim 1, which are both having no method step of “requesting the information” for further limiting as recited in claim 9. Claim 9 appears to further limit the method step of “requesting the information” as recited in claim 6 instead of claim 8. Applicant is required to clarify and/or cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 2, 11, 12, 16-23, 25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin (U.S. Patent No. 6,618,045).

Regarding claims 11, 12 and 16-18, Lin does teach an apparatus comprising interfaces (32-34, 46, 48 and 53); and a control unit (21) communicatively coupled to the interface and adapted to: receive data indicative of light conditions proximate to a visual presentation device

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(20) (one or more light detectors 74 for acquiring light conditions including ambient light and light spectrum in the lighting environment surrounding display 47 of the computer 20; see Figure 1, and col. 4, lines 33-42); receive data associated with at least one visibility profile (e.g., receiving user's operative parameters such as brightness and contrast settings of the display 47, see col. 4, lines 46-51); and determine visual data to be displayed by the visual presentation device based on at least a portion of the received data indicative of light conditions and at least a portion of the received data associated with the at least one visibility profile (logic 82 receiving light condition values and user preferred settings for determine information displayed on the display 47), see Figures 2-3.

Regarding claim 19, Lin, Figure 3, shows a logic 82, which acts as means for: (i) receiving data indicative of light conditions proximate to a visual presentation device; (ii) receiving data associated with at least one visibility profile; and (iii) determining visual data to be displayed by the visual presentation device based on at least a portion of the received data indicative of light conditions and at least a portion of the data associated with the at least one visibility profile; see col. 5, lines 5-24.

Regarding claims 20-23, Lin teaches generally all as discussed above, and further teaches: at least one storage device (84) adapted to store at least one visibility profile (user preferences 86, see col. 5, lines 16-19); and a processor-based device (logic 82 including a programmable processor, see col. 5, lines 12-13); a plurality of visual presentation devices (computer 20 with display 47, and computer 50 with display 49, see Figure 1, and col. 4, lines 3-14).

Regarding claims 1 and 2, which are method claims corresponding to the apparatus claims 11 and 12, and are therefore rejected on the same basis set forth in claims 11 and 12 discussed above.

Regarding claims 25 and 26, Lin further also teaches a computer program product comprising a logic (82) stored in a computer memory (22) for executed by a processor (21) for performing the method steps of receiving ambient light intensity or ambient light spectrum, user's preferred brightness and contrast settings of display, and determining displayed

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-10, 13-15, 24 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (U.S. Patent No. 6,618,045) in view of Dresevic et al (U.S. Patent No. 6,674,436, hereinafter referred to as referred to as "Dresevic").

Lin teaches generally all, including: comparing the ambient light conditions and the user's operative parameter settings, see col. 2, lines 57-64; a processor-based device which is a remote computer or a server (50) for providing displayed information using the remote memory, see col. 4, lines 5-9, lines 21-23, and lines 54-56. However, Lin does not teaches expressly the step of receiving an indication of at least one deficiency in vision of a user for comparing with the ambient light conditions for determining a desired information (claims 3-5 and 13-15), a device profile and a Learner Profile (claim 7), and a user identification number (claim 9) and a new user

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using the visual presentation device (claim 10). Dresevic teaches a method and an apparatus for modifying visual presentations based on ambient light conditions, display characteristics, and user preferences, comprising: the step of receiving an indication of at least one deficiency in vision of a user; see col. 10, lines 1-20 ("user profiles (352) includes ... a sensitive to a color error"); a device profile, see col. 10, lines 56-67; a Learner Profile, see col. 3, lines 58-63, and col. 12, lines 51-59 (updating display profile or generating new user profile), and a user identification number (USER 1, ... USER Z), see Figure 3, user profiles 354 and 356; and a new user using the visual presentation device, see col. 12, lines 51-59. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features as taught by Dresevic in the Lin system because this would increase the perceived quality of displayed images based on not only ambient light conditions and display device profiles but also an individual user's own physical perception capabilities and /or viewing characteristics, see Dresevic, abstract. Claims 3-10, 13-15, 24 and 27-29 are therefore rejected on the same basis set forth in claims 1, 2, 11, 12, 16-23, 25 and 26 and at least by the reasons discussed above.

Conclusion

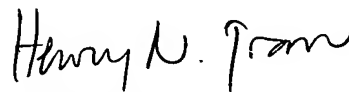
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They are U.S. Patents Nos.: 6870529, 6690351 and 6094185, which teaches systems and methods for adjusting display parameters according to ambient light and user preferences.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry N. Tran whose telephone number is 571-272-7760. The examiner can normally be reached on M-F 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin H. Shalwala can be reached on 571-272-7681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Henry N Tran
Primary Examiner
Art Unit 2629

HT
12/13/06